

SENATE BILL REPORT

SB 6130

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, FEBRUARY 4, 1994

Brief Description: Allowing equal access to justice.

SPONSORS: Senators Anderson, Amondson, McDonald, Nelson, Bluechel, Morton, Oke, Hochstatter, Erwin, Moyer, Schow, Roach, McAuliffe, Quigley, Cantu, A. Smith and Haugen

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Deccio, McAuliffe, Newhouse, Prince, Sellar, Sutherland, Vognild and Wojahn.

Staff: Jonathan Seib (786-7427)

Hearing Dates: January 19, 1994; February 4, 1994

BACKGROUND:

As a general rule, a party seeking review of or defending against a state agency action is responsible for his or her own attorneys' fees and expenses.

In litigation with persons and small businesses, state agencies typically have substantially more resources available to defend their position. There is concern that this discourages the pursuit or defense of legal rights by persons or small businesses in the state, and that this in turn encourages an abuse of agency authority.

It is suggested that attorneys' fees, costs and expenses be awarded to an individual or small business that prevails in a judicial review of a state agency action.

The federal Equal Access to Justice Act was enacted in 1981 and renewed in 1985 to provide these remedies on the federal level. Twenty-four states have enacted an equal access to justice policy.

SUMMARY:

A court is to award any eligible party that prevails in a judicial review of an agency action their fees and other expenses not exceeding \$10,000.

Eligible parties include: (1) an individual whose net worth does not exceed \$1 million; (2) a business whose net worth does not exceed \$5 million or that has no more than 100 employees; or (3) a nonprofit organization.

Agencies paying fees and expenses are to report such payment to the Office of Financial Management (OFM). OFM is to report annually to the Legislature on the fees and expenses awarded during the preceding year.

Appropriation: none

Revenue: none

Fiscal Note: requested January 17, 1994

TESTIMONY FOR:

Small businesses must be given the tools to challenge arbitrary or unreasonable agency actions. Many now simply submit to questionable agency directives because of the substantial resources necessary to challenge them. This is unfair and encourages abuse of agency authority. The fiscal impact of a similar measure at the federal level has not been significant.

TESTIMONY AGAINST: None

TESTIFIED: Carolyn Logue, National Federation of Independent Business (pro); Mike Lawrence, Harbor Wholesale (pro); Tony Meinhardt, Independent Business Association (pro)